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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,482	08/27/2007	Leif Gustavsson	OH/LIN 006NP	7213
20995 7590 04/01/2010 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
MEYER, KATY E				
ART UNIT		PAPER NUMBER		
3618				
NOTIFICATION DATE		DELIVERY MODE		
04/01/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/596,482

Applicant(s)

GUSTAVSSON, LEIF

Examiner

Katy Meyer

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 14 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/226)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date 8/27/07

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the term, "the temperature" is indefinite, as the claim does not establish the element whose temperature is being monitored.

Claim 6 does not properly define the regulating valve-controlling member. It is improper to use the term "comprising" instead of "consisting of" when claiming a Markush group. Ex parte Dotter, 12 USPQ 382 (Bd. App. 1931).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohshita et al. (US 5,872,428).

Ohshita et al. disclose a device for use in a vehicle for transmitting a drive force from at least one first wheel (17) to at least one second wheel (22) with a hydrostatic transmission arrangement, the hydrostatic transmission arrangement comprising: a

hydrostatic pump (31), the first wheel and the hydrostatic pump being drivingly connected; a hydrostatic drive assembly (36) connected to the pump by a hydrostatic line system (Fig. 3), the hydrostatic drive assembly being drivingly connected to the second wheel; and one or more members positioned along the hydrostatic line system, the one or more members (46, 47) being adapted to wholly or partially bridge or disconnect or reconnect the hydrostatic drive assembly.

Ohshita et al. further disclose a flow and pressure regulating valve controlled by a mechanical member (see 46). Said regulator (46) produces a variation in the medium moving through the hydrostatic line system. The assembly may be operated in a first state (rear wheel drive) and a second state (all wheel drive).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 – 4 and 7 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohshita et al. (US 5,872,428) in view of Ward et al. (US 3,770,076).

Ohshita et al. meet all the limitations of the claimed invention, but do not disclose a unit that controls the bridging duct based on temperature.

Ward et al. teach a hydrostatic drive assembly having a unit (11) provided with temperature sensitive members and members that connect and disconnect a bridging

duct based on the temperature of the fluid (Fig. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system taught by Ohshita et al. to include the temperature-sensitive unit taught by Ward et al. to prevent overheating of the fluid, which may result in damage or underperformance of the system. Ward et al. further disclose a first body (18) comprising a fluid, and a second body (14) which may be made of metal. A cone (18) is associated with a seat (16).

As for claims 7 – 9, applicant has provided no explanation of the relevance or criticality of the values provided for temperature range, pressure drop, and time delay. It would have been within the general skill of a worker in the art to determine safe levels of temperature and pressure, and adjust the system to operate within the claimed ranges. Further, the valve (Fig. 2) taught by Ward et al. is capable of operating in the range of 80 - 105 degrees Celsius and causing change of less than 3% in the flow and 1% in the pressure of the medium. As for the time delay, one of ordinary skill in the art would have known to minimize the time delay to ensure quick response to the operator's demands.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katy Meyer whose telephone number is (571)272-5830. The examiner can normally be reached on Monday - Thursday, 8:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. M./
Examiner, Art Unit 3618

/Hau V Phan/
Primary Examiner, Art Unit 3618